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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,
Petitioner,
vs.
Vincent Lee Honahni,
Respondent/Movant.

No. CV 11-08178-PCT-NVW (MHB)
ORDER

Before the Court are Defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Doc. 1), United States Magistrate Judge Burns' Report and Recommendation (Doc. 14), Defendant's Motion for Appointment of Attorney or Public Defender (Doc. 18), Defendant's Motion to Dismiss or in the Alternative a New Hearing (Doc. 19), and Defendant's Objection to the Magistrate's Report and Recommendation (Doc. 20).

The Court has considered Defendant's objections and reviewed the Report and Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the Court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). The Court agrees with the magistrate judge's determinations, accepts her recommended decision within the meaning of Rule 72(b), Fed. R. Civ. P., and overrules Defendant's objections. *See* 28 U.S.C. § 636(b)(1) (stating that the district court "may accept, reject, or modify, in whole or in

1 part, the findings or recommendations made by the magistrate”). Defendant’s motions to
2 dismiss and to appoint counsel are without merit and will also be denied.

3 Further, having considered the issuance of a Certificate of Appealability pursuant
4 to Rule of the Rules Governing Section 2255 Cases, in the event Defendant files an
5 appeal, the Court **denies** issuance of a Certificate of Appealability and leave to proceed in
6 forma pauperis on appeal. Defendant has not made a substantial showing of the denial of
7 a constitutional right.

8 IT IS THEREFORE ORDERED that the Report and Recommendation of
9 Magistrate Judge Burns (Doc. 14) is accepted.

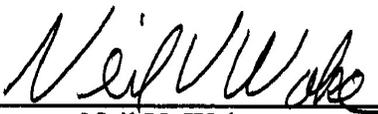
10 IT IS FURTHER ORDERED that Defendant's Motion Under 28 U.S.C. § 2255 to
11 Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Doc. 1) is denied
12 and dismissed with prejudice.

13 IT IS FURTHER ORDERED that Defendant’s Motion for Appointment of
14 Attorney or Public Defender (Doc. 18) is denied.

15 IT IS FURTHER ORDERED that Defendant’s Motion to Dismiss or in the
16 Alternative a New Hearing (Doc. 19) is denied.

17 IT IS FURTHER ORDERED that the Clerk of the Court shall enter judgment
18 accordingly and terminate this action.

19 Dated this 13th day of July, 2012.

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22 _____
23 Neil V. Wake
24 United States District Judge
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